

In the
United States District Court for the
Northern District of Illinois, Western Division

FILED

JAN 31 2008

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT.

James Russell Johnson,
Plaintiff;

- V.-

File Number 2008C50002

Notice of Appeal

State of Illinois,
Winnebago County Sheriff:
Richard Meyers
420 West State Street
Rockford, Illinois. 61101;
Defendant,

Notice is hereby given that James Russell Johnson, Plaintiff-detainee, in the above named case hereby appeal to the United States Seventh Circuit Court of Appeals, from the final judgment of dismissal entered in this action upon the 25th day of January, 2008.

Date: January 30, 2008

/s/ James Russell Johnson
Mr. James Russell Johnson,
Plaintiff/Detainee/Appellant
M.I.D.# 1716
650 West State Street
Rockford, Illinois. 61101.

James Russell Johnson

ROCKFORD IL 61101
30 JAN 2008 PM 2:41

*District Court Clerk's Office
211 South Court Street
Rockford, Illinois. 61101*

Legal

RECEIVED

JAN 31 2008

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

61101+1213

SEVENTH CIRCUIT COURT OF APPEALS INFORMATION SHEET

Include the names of all plaintiffs (petitioners) and defendants (respondents) who are parties to the appeal. Use a separate sheet if needed.

NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION DOCKET NUMBER: 3:08-cv-50002

PLAINTIFF (Petitioner)

v.

DEFENDANT (Respondent)

James Russell Johnson (Appellant)

Richard Meyers

(Use separate sheet for additional counsel)

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name	James Russell Johnson #1716	Name	none of record
Firm	PRO SE	Firm	
Address	Winnebago - WCJ 650 West State Street Rockford, IL 61101	Address	
Phone		Phone	

Other Information			
District Judge	Frederick J. Kapala	Date Filed in District Court	01/02/2008
Court Reporter	Mary Lindbloom	Date of Judgment	01/25/2008
Nature of Suit Code	530 Prisoner: Habeas Corpus	Date of Notice of Appeal	01/31/2008

COUNSEL:

Appointed

☐

Retained

☐

Pro Se

☒

FEE STATUS:

Paid

☐

Due

☐

IFP

☒

IFP Pending

☐

U.S.

☐

Waived

☐

Has Docketing Statement been filed with the District Court Clerk's Office?

Yes

☐

No

☒

If State/Federal Habeas Corpus (28 USC 2254/28 USC 2255), was Certificate of Appealability:

Granted

☐

Denied

☐

Pending

☐

If Certificate of Appealability was granted or denied, date of order:

If defendant is in federal custody, please provide U.S. Marshall number (USM#):

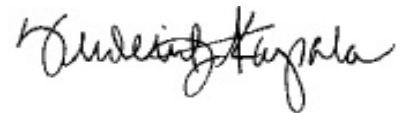
IMPORTANT: THIS FORM IS TO ACCOMPANY THE SHORT RECORD SENT TO THE CLERK OF THE U.S. COURT OF APPEALS PURSUANT TO CIRCUIT RULE 3(A). Rev 04/01

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	FREDERICK J. KAPALA	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 50002	DATE	January 25, 2008
CASE TITLE	James Russell Johnson (#1716) v. Richard Meyers		

DOCKET ENTRY TEXT:

The court summarily dismisses the petition for a writ of habeas corpus pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Petitioner's motions for evidentiary hearing [6] and for habeas corpus bail [7] are denied.



■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

Petitioner James Russell Johnson, currently a pre-trial detainee at Winnebago County Jail, brings this *pro se* petition for a writ of habeas corpus. He alleges that he has been indicted, arrested, and incarcerated upon two illegitimately enhanced and aggravated Class 4 felony driving while license is revoked charges.

Federal courts do not interfere with pending state criminal proceedings except under extraordinary circumstances, see *Younger v. Harris*, 401 U.S. 37 (1971). Federal courts require, as a matter of comity, the respect owed one government for another's laws and courts, that pretrial detainees exhaust all avenues of state relief before petitioning a federal court for habeas corpus. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 489-92 (1973); *United States v. Castor*, 937 F.2d 293, 296-97 (7th Cir. 1991). See also *Neville v. Cavanaugh*, 611 F.2d 673, 675 (7th Cir. 1979); *In re Justices of Superior Court Dept. of Massachusetts Trial Court*, 218 F.3d 11, 17-18 (1st Cir. 2000) (discussing *Neville* and noting that "federal courts have routinely rejected petitions for pretrial habeas relief raising any variety of claims and issues").

Petitioner's state court remedies have not been exhausted because he has not even gone to trial yet. Petitioner still has available lower state court remedies, particularly direct review, if his trial does not result in an acquittal. See *Brink v. Rouch*, 677 F.Supp. 569, 571 (C.D. Ill. 1988); *Hughes v. Kiley*, 67 Ill.2d 261, 367 N.E.2d 700 (1977). Petitioner therefore must exhaust his state court remedies before pursuing federal habeas corpus relief.

Courtroom Deputy
Initials:

CLH

STATEMENT

Petitioner has moved for habeas corpus bail. Petitioner has state court remedies to appeal a trial court's refusal to grant or modify his bail. *See* Illinois Supreme Court Rule 604(c). Petitioner apparently has not exercised these remedies. Furthermore, a federal district court judge in habeas corpus proceedings can only grant or modify bail to a habeas applicant who has criminal proceedings pending in state court if extraordinary circumstances exist. *See Kramer v. Jenkins*, 800 F.2d 708, 709 (7th Cir. 1986); *Cherek v. United States*, 767 F.2d 335, 337 (7th Cir. 1985). In determining whether bail is "reasonably calculated," the federal courts cannot be expected to conduct a *de novo* bond hearing for every habeas corpus that comes before it. *U.S. ex rel. Fitzgerald v. Jordan*, 747 F.2d 1120, 1133 (7th Cir. 1984). That would not only further burden the federal court system, but it would represent an unwarranted interference in the operation of the state's criminal justice system. *Finetti v. Harris*, 609 F.2d 594, 600 (2d Cir. 1979); *Simon v. Woodson*, 454 F.2d 161, 165 (5th Cir. 1972). The court accordingly denies petitioner's motion for bail.

Because the court is dismissing this action, petitioner's motion for evidentiary hearing is denied as moot.

After preliminary review, the court summarily dismisses the petition for a writ of habeas corpus pursuant to Rule 4 of the Rules Governing Section 2254 Cases.

United States District Court
Northern District of Illinois
Western Division

James Russell Johnson

JUDGMENT IN A CIVIL CASE

v.

Case Number: 08 C 50002

Richard Meyers

- ☐ Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury rendered its verdict.
- ☒ Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS HEREBY ORDERED AND ADJUDGED that the court summarily dismisses the petition for a writ of habeas corpus pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Petitioner's motions for evidentiary hearing and for habeas corpus bail are denied.

Michael W. Dobbins, Clerk of Court

Date: 1/25/2008

/s/ Susan Wessman, Deputy Clerk

APPEAL, HABEAS, MAHONEY, PC, TERMED

United States District Court
Northern District of Illinois - CM/ECF LIVE, Ver 3.0 (Rockford)
CIVIL DOCKET FOR CASE #: 3:08-cv-50002
Internal Use Only

Johnson v. Meyers et al
Assigned to: Honorable Frederick J. Kapala
Referred to: Honorable P. Michael Mahoney
Cause: 28:2254 Petition for Writ of Habeas Corpus
(State)

Date Filed: 01/02/2008
Date Terminated: 01/25/2008
Jury Demand: None
Nature of Suit: 530 Prisoner: Habeas Corpus
Jurisdiction: Federal Question

Petitioner

James Russell Johnson

represented by **James Russell Johnson**
#1716
Winnebago - WCJ
650 West State Street
Rockford, IL 61101
PRO SE

V.

Respondent

Richard Meyers
State Of Illinois, Winnebago County
Sheriff

Service List

represented by **Chief of Criminal Appeals**
Attorney General's Office
100 West Randolph - 12 Floor
Chicago, IL 60601
ATTORNEY TO BE NOTICED

**Prisoner Correspondence - Internal
Use Only**

Email:
Prison1_ILND@ilnd.uscourts.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/02/2008	1	RECEIVED Emergency Petition For Habeas Corpus Relief and 0 copies by James Russell Johnson (Attachments: # 1 Supporting Memorandum# 2 Notice of Filing)(pg,) Additional attachment(s) added on 1/3/2008 (pg,). (Entered: 01/03/2008)
01/02/2008	2	CIVIL Cover Sheet (pg,) (Entered: 01/03/2008)
01/02/2008		THIS matter is referred to the Honorable P. Michael Mahoney pursuant to Internal Operating Procedure 11(d) (pg,) (Entered: 01/03/2008)
01/03/2008		MAILED copy of Petition For Writ Of Habeas Corpus with attachments to Chief Of Criminal Appeals via certified mail #7002 0510 0000 6469 1793 (pg,) (Entered: 01/03/2008)
01/03/2008	3	(Court only) RECEIPT regarding payment of filing fee paid on 1/3/2008 in the amount of \$5.00, receipt number 3538 (pg,) (Entered: 01/03/2008)
01/03/2008	4	PETITION for writ of habeas corpus filed by James Russell Johnson against Richard Meyers Filing fee \$ 5. (Attachments: # 1 Memorandum# 2 Notice of Filing# 3 Envelope)(pg,) (Entered: 01/03/2008)
01/14/2008	5	RETURN of US post office #7002 0510 0000 6469 1793 (jat,) (Entered: 01/14/2008)
01/15/2008	6	MOTION by Petitioner James Russell Johnson for Evidentiary hearing (pg,) (Entered: 01/15/2008)
01/23/2008	7	MOTION by Petitioner James Russell Johnson for Habeas Corpus Bail (Attachments: # 1 Envelope)(pg,) (Entered: 01/23/2008)
01/25/2008	8	MINUTE entry before Judge Frederick J. Kapala : Civil case terminated.: The court summarily dismisses the petition for a writ of habeas corpus pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Petitioner's motions for evidentiary hearing 6 and for habeas corpus bail 7 are denied. [For further details see text below.] docketing mailed notice (jat,) (Entered: 01/25/2008)
01/25/2008	9	ENTERED JUDGMENT Signed by Court Clerk for Judge Frederick J. Kapala on 1/25/2008:(jat,) (Entered: 01/25/2008)
01/31/2008	10	NOTICE of appeal by James Russell Johnson regarding Order 8 , Judgment 9 (jat,) (Entered: 01/31/2008)
01/31/2008	11	MOTION/Affidavit in Support of Motion Instructions by Petitioner James Russell Johnson for leave to appeal in forma pauperis (jat,) (Entered: 01/31/2008)